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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROYASU FUJIWARA and MASAKI IWASADA

Appeal 2008-1380
Application 10/015,660
Technology Center 2100

Decided: November 20, 2008

Before JAMES D. THOMAS, JEAN R. HOMERE, and
THU A. DANG, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-15. We have jurisdiction under 35 U.S.C. § 6(b).

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A. INVENTION

According to Appellants, the invention relates to a technology of processing information related to a plurality of organizations (Spec. 1, ll. 7-8).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and is reproduced below:

1. A readable-by-computer recording medium recorded with a program read by a computer to manage data generated by a plurality of organizations on the basis of communication data transferred and received between said organizations, which executes:

inputting the communication data sent from a first organization to a second organization;

simulating a first intra-organization procedure executed in said first organization when sending the communication data; and

recording first data generated by the first intra-organization procedure,

wherein the first data includes at least a contract term, an article price and an article.

C. PRIOR ART

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

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Umeda, *An Integration Test-Bed System for Supply Chain Management*, Proceeding of the 1998 Winter Simulation Conference, 1377-1385, (1998).

D. REJECTION

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) over the teachings of Umeda in view of Takahashi.

We affirm.

II. ISSUES

The issues include whether Appellants have shown that the Examiner erred in finding that claims 1-15 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Umeda and Takahashi. In particular, the issues turn on:

A. whether the combination of Umeda and Takahashi discloses 1) “inputting the communication data sent from a first organization to a second organization,” 2) “simulating a first intra-organization procedure executed in said first organization when sending the communication data,” and 3) “recording first data generated by the first intra-organization procedure;” (Claim 1); and

B. whether it would have been obvious to one of ordinary skill in the art to combine the teachings of Umeda and Takahashi.

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III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Admitted Prior Art

1. Appellants admit as prior art the teaching of large-scale organizations preparing an information system in every division and managing the information, wherein, in issuing the order and shipping between the divisions for the plurality of organizations, the information held by the respective organizations is collected batchwise (pg. 1, l. 25 to pg. 2, l. 7).

Appellants' invention

2. Appellants disclose orders issuing/receiving and shipping related business operations among those operations executed by collaboration among divisions (Spec. 11, ll. 22-24).

Takahashi

3. Takahashi discloses a purchase form which includes an article number, a quantity of articles, a price, a delivery date, a member name who issues order, a member name who accepts order, and an order number (col. 5, ll. 35-38; Fig. 8).

Umeda

4. Umeda discloses collaboration between modern manufacturing enterprises to design and produce products with business partners, such as vendors, retailers, and distributors (pg. 1377, col. 1, para. 2).
5. Supply Chain Management (SCM) is the management of material and information flows both in and between facilities in the chain, such as vendors, manufacturing plants, and distribution centers (pg. 1377, col. 1, para. 4 to col. 2, para. 1).
6. A communication server contains three modules to communicate tactical data among the suppliers: 1) the suppliers data driver collects production data from supplier's factories, distribution data from retailers, and demand data from resellers and customers, 2) the production data driver collects production and distribution data, and processes them to send to the simulation system and the decision support system, and 3) the demand data driver collects demands data from the distributors and customers and processes them to send to simulation system and the decision support system (pg. 1379, col. 1, para. 1, to col. 2, para. 1; Fig. 1).
7. A “Virtual Suppliers Manager” (VSM) simulates mainly business-process flow and information flow within chained companies, and includes middle level simulators of individual suppliers such as factory, warehouse, distributors, and transportation simulators (pg. 1378, col. 2, para. 1; Fig. 1).

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8. The communication process associated with the Communication Server is the same as many commercial WEB sites to manage their data base system (pg. 1384, col. 1, para. 2).

IV. PRINCIPLES OF LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

Section 103 forbids issuance of a patent when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

KSR Int'l Co. v. Teleflex Inc., 127 S. Ct. 1727, 1734 (2007).

The Supreme Court emphasized "the need for caution in granting a patent based on the combination of elements found in the prior art," and discussed circumstances in which a patent might be determined to be obvious. *KSR*, 127 S. Ct. at 1739 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent

that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 1740.

V. ANALYSIS

Claims 1, 3-6, 8-11, 13, and 14

Appellants do not provide separate arguments with respect to the rejection of claims 1, 3-6, 8-11, 13, and 14. Therefore, we select independent claim 1 as being representative of the cited claims. 37 C.F.R. § 41.37(c)(1)(vii).

Appellants argue that “Umeda does not teach or suggest the **‘inputting the communication data sent from a first organization to a second organization’**” (App. Br. 6). In particular, Appellants argue that “VSM in[sic] a active intermediary, which processes and transforms the data received from one or more consumers to provide the process order, which is other data than the received data, to a supplier, i.e. a second organization” (App. Br. 7). Thus, the issue we address on appeal is whether Umeda discloses that “inputting the communication data sent from a first organization to a second organization” (Claim 1).

We begin our analysis by giving the claims their broadest reasonable interpretation. *See In re Bigio* at 1324. Furthermore, our analysis will not

read limitations into the claims from the specification. *See In re Van Geuns* at 1184. It is the Appellants' burden to precisely define the invention. *See In re Morris* 127 F.3d 1048, 1056 (Fed. Cir. 1997).

Appellants' claims simply do not place any limitation on what the term "organization" in "first organization" and "second organization" is to be, to represent, or to mean, other than that data is input from one entity termed "first organization" to another entity, "second organization." In fact, even Appellants' Specification is silent as to what the term "organization" is to be, to represent, or to mean.

We generally agree with the Examiner's finding that Umeda discloses the claimed elements beginning at page 3 of the Answer, and including the Examiner's corresponding responsive arguments beginning at page 18 of the Answer.

Umeda discloses collaboration of manufacturing enterprises with business partners, such as vendors, retailers, and distributors, wherein the material and information flows both in and between facilities in the chain, such as vendors, manufacturing plants, and distribution centers are managed (FF 4-5). Production data from supplier's factories, distribution data from retailers, and demand data from distributors, resellers and customers are processed and sent (FF 6). We find that such collaboration and flow of material and information between the manufacturing enterprises and business partners to be inputting of information from one organization to another organization. In fact, Appellants' own invention is directed to the

collaboration and flow of information between the various divisions within the various enterprises (FF 2). We thus agree with the Examiner that Umeda discloses inputting information sent from a first organization to a second organization.

Though in the Reply Brief, Appellants argue that “the communication data (i.e., delivery orders) sent from a customer (i.e. a first organization) is NOT input to a second organization in Umeda” (Reply Br. 3), such argument is not commensurate with the claimed invention. As discussed above, our analysis will not read limitations into the claims, wherein we will not read “delivery orders” into the claimed limitation of “communication data” and will not read “customer” as “a first organization.” As discussed, we find the collaboration and flow of material and information between the manufacturing enterprises and business partners to be information input from a first organization to a second organization. Thus, we find that the Examiner did not err in finding the combination of Umeda and Takahashi discloses “inputting the communication data sent from a first organization to a second organization” (Claim 1).

Appellants also argue that “Umeda does not teach or suggest the **‘simulating a first intra-organization procedure executed in said first organization when sending the communication data’**” (App. Br. 7). In particular, Appellants argue that “Umeda’s whole disclosure does not teach or suggest the simulation being directed to ‘a first intra-organization procedure executed in said first organization when sending the

communication data”’ (App. Br. 8). Thus, the issue we address on appeal is whether Umeda discloses that “simulating a first intra-organization procedure executed in said first organization when sending the communication data” (Claim 1).

Appellants’ claims simply do not place any limitation on what “first intra-organization” is to be, to represent, or to mean, other than that such procedure is executed in the first organization. As discussed above, Appellants’ Specification is even silent as to what the term “organization” is to be, to represent, or to mean.

We generally agree with the Examiner’s finding that Umeda discloses the claimed elements beginning at page 4 of the Answer, and including the Examiner’s corresponding responsive arguments beginning at page 19 of the Answer.

Umeda discloses a “Virtual Suppliers Manager” (VSM) for simulating mainly business-process flow and information flow within chained companies, the VSM including various middle level simulators of individual suppliers such as factory, warehouse, distributors, and transportation simulators (FF 7). We find that such simulating steps by the various simulators when the data is being sent to be simulating a procedure executed in the various individual suppliers when the data is being sent. For example, a distributor simulation is simulating a distributor (first intra-organization) procedure executed in the distributor. We thus find that the Examiner did not err in finding that Umeda discloses simulating a first intra-organization

procedure executed in said first organization when sending the communication data.

Appellants further argue that “**Umeda does not teach or suggest the ‘recording first data generated by the first intra-organization procedure’**” (App. Br. 8). In particular, Appellants argue that “the demand data driver does not record any data” (App. Br. 8). Thus, the issue we address on appeal is whether Umeda discloses “recording first data generated by the first intra-organization procedure” (Claim 1).

We generally agree with the Examiner’s finding that Umeda discloses the claimed elements beginning at page 4 of the Answer, and including the Examiner’s corresponding responsive arguments beginning at page 19 of the Answer.

Umeda discloses the well-known teaching of a database system (FF 8). In Umeda, the material and information flows both in and between facilities in the chain, such as vendors, manufacturing plants, and distribution centers are managed (FF 4-5). One of ordinary skill in the art would have understood that such management of the material and information flows would include accounting procedures such as recording the data generated, to ensure that the information managed would be appropriately updated, for example. We find that such recording of data generated would at the least be implicit in the teachings of management of the information to an artisan. In fact, Appellants admit as prior art the step of managing the information for organizations in issuing the order and

shipping between the divisions for the plurality of organizations, wherein the information is collected batchwise (FF 1). We thus find that the Examiner did not err in finding that the prior art discloses, or at the least, suggests recording first data generated by the first intra-organization procedure.

Appellants also argue that there is “[n]o motivation to combine Umeda and Takahashi” (App. Br. 9). However, the Examiner finds that “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Takahashi et al with Umeda et al because both references are clearly concerned with business management between different companies or firms” (Ans. 4). Thus, the issue we address on appeal is whether it would have been obvious to one of ordinary skill in the art to combine the teachings of Umeda and Takahashi.

Umeda discloses collaboration between manufacturing enterprises and business partners, with material and information flows both in and between facilities in the chain (FF 4-5). Takahashi discloses a purchase form used in purchase orders which sets forth contract term, article price, and article (FF 3). We agree with the Examiner’s finding that it would have been obvious to combine the teachings of Umeda and Takahashi, to include purchase order information as part of the information flows in and between facilities. The combination yields an expected result of collaborated purchase order information.

Appellants have provided no evidence that incorporating Takahashi’s purchase order information to Umeda’s collaborated information was

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“uniquely challenging or difficult for one of ordinary skill in the art,” *Leapfrog Enter., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), nor have Appellants presented evidence that this incorporation yielded more than expected results. Rather, Appellants’ invention is simply an arrangement of the well-known teaching of purchase order information with the known teaching of collaborating information. The Supreme Court has determined that a person of ordinary skill is also a person of ordinary creativity, not an automaton. *KSR*, 127 S. Ct. at 1742. Therefore, it is our view that a person of ordinary skill would have been able to fit the teachings of the cited references together like pieces of a puzzle.

Accordingly, we find that the Examiner did not err in finding claim 1 obvious over the teachings of Umeda in view of Takahashi. Thus, we conclude that the Appellants have not shown that the Examiner erred in rejecting claim 1, and claims 3-6, 8-11, 13, and 14 falling with claim 1, under 35 U.S.C. § 103(a).

Claims 2, 7, and 12

As for claim 2, 7, and 12, Appellants provide the same argument as above, including “**Umeda does not teach or suggest the ‘inputting the communication data sent from a first organization to a second organization’**,” “**Umeda does not teach or suggest the ‘recording first data generated by the first intra-organization procedure’**,” and that there is “[n]o motivation to combine Umeda and Takahashi”(App. Br. 8-9).

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We find no deficiencies regarding Umeda and Takahashi, and find that one of ordinary skill in the art would have found it obvious to combine the teachings of Umeda and Takahashi, as discussed above regarding claim 1. Therefore, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 2, 7, and 12, under 35 U.S.C. § 103(a) over Umeda and Takahashi.

CONCLUSION OF LAW

(1) Appellants have not shown that the Examiner erred in finding that claims 1-15 are unpatentable under 35 U.S.C. § 103(a) over the teachings of Umeda and Takahashi.
(2) Claims 1-15 are not patentable.

DECISION

We affirm the Examiner's rejection of claims 1-15 under 35 U.S.C. § 103(a).

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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